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*Melvin Cravin, Efrain Lona,*  
*and Glenda Stewart*  
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11 **UNITED STATES DISTRICT COURT**  
12 **DISTRICT OF NEVADA**

13 SYDNEY SHACKERFORD,

14 Plaintiff,

15 v.

16 JAMES DZURENDA, et al.,

17 Defendants.  
18

Case No. 2:19-cv-00469-GMN-DJA

**UNOPPOSED MOTION TO EXTEND  
THE DISPOSITIVE MOTIONS  
DEADLINE BY FIFTY DAYS FROM  
MAY 12, 2021, TO JULY 1, 2021  
(FIRST REQUEST TO EXTEND THE  
DISPOSITIVE MOTIONS  
DEADLINE)**

19 Defendants, Melvin Cravin, Efrain Lona, and Glenda Stewart, by and through  
20 counsel, Aaron D. Ford, Nevada Attorney General, and Alexander J. Smith, Deputy  
21 Attorney General, of the State of Nevada, Office of the Attorney General, hereby move to  
22 extend by a modest fifty days the dispositive motions deadline only from May 12, 2021, to  
23 July 1, 2021.<sup>1</sup>

24 On May 10, 2021, counsel for Defendants and Plaintiff Sydney Shackerford engaged  
25 in a pleasant, amicable, and co-operative telephonic meet and confer to discuss this motion  
26

27 <sup>1</sup> Setting a dispositive motions deadline of May 12, 2021, a January 12, 2021  
28 scheduling order states that “[m]otions for summary judgment . . . must be filed and served  
no later than 30 days after the close of discovery, which is April 12, 2021.” (ECF No. 21  
at 3)

1 to extend the deadline to file dispositive motions and to discuss any possible settlement  
2 offer from Shackerford.

3 This motion is unopposed, and Defendants move for a dispositive motions deadline  
4 extension for the reasons stated below.

## 5 **MEMORANDUM OF POINTS AND AUTHORITIES**

### 6 **I. LAW AND ARGUMENT**

#### 7 **A. Rule 6(b), Federal Rules Of Civil Procedure.**

8 Rule 6(b)(1), Federal Rules of Civil Procedure, governs extensions of time and states:

9 When an act may or must be done within a specified time, the  
10 court may, for good cause, extend the time: (A) with or without  
11 motion or notice if the court acts, or if a request is made, before  
12 the original time or its extension expires; or (B) on motion made  
after the time has expired if the party failed to act because of  
excusable neglect.

13 If additional time for any purpose is needed, the proper procedure is to present a  
14 request for extension of time before the time fixed has expired. *Canup v. Mississippi Val.*  
15 *Barge Line Co.*, 31 F.R.D. 282 (W.D. Pa. 1962). An extension of time may always be sought  
16 and is usually granted on a showing of good cause if timely made under subdivision (b)(1)  
17 of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

#### 18 **B. Local Rules IA 6-1 And 26-3.**

19 LR IA 6-1 requires that a motion to extend time must state the reasons for the  
20 extension requested and will not be granted if requested after the expiration of the specified  
21 period unless the movant demonstrates that the failure to file the motion before the  
22 deadline expired resulted because of excusable neglect. LR 26-3 requires that a motion to  
23 extend any date set by the discovery plan, scheduling order, or other order must, as well as  
24 satisfying the requirements of LR IA 6-1, demonstrate good cause for the extension, and  
25 such a motion filed after the expiration of the deadline will not be granted unless the  
26 movant demonstrates that the failure to act resulted from excusable neglect.

27 Finally, LR 26-3 lists four factors that are considered upon adjudication of a motion  
28 to extend a discovery deadline or to reopen discovery: (a) a statement specifying the

discovery completed; (b) a specific description of the discovery that remains to be completed; (c) the reasons why the deadline was not satisfied or the remaining discovery was not completed within the time limits set by the discovery plan; and (d) a proposed schedule for completing all remaining discovery.

**C. Good Cause Exists, Thus An Order Should Grant Defendants' Motion For An Extension Of The Dispositive Motions Deadline**

Here, good cause exists for extending the dispositive motions deadline by fifty days. Both parties intend to move for summary judgment, and Defendants will, among other things, argue that there is no genuine dispute as to any material fact concerning Shackerford's Eighth Amendment excessive force claims; Defendants continue to assert that no constitutional violations occurred, thus Defendants are entitled to judgment as a matter of law. By extending the deadline by fifty days, Shackerford is under no danger of prejudice, and the delay is short.

Counsel for the defense, Attorney Smith, represents the interests of several hundred defendants in approximately fifty cases. Over the last six or so weeks, Attorney Smith has worked on several other summary judgments. Other tasks have included a complex Rule 12(c), Federal Rules of Civil Procedure, motion; much factual and legal research into a motion for a preliminary injunction to allow a particular faith-group access under the Religious Land Use and Institutionalized Persons Act to a prison chapel; several hearings and briefs in state court on the constitutional right of access to the courts in the COVID pandemic; several depositions; much discovery-related work; Attorney-General work-related training and office administrative tasks; mentoring and assisting newly appointed attorneys with their work; several mediation conferences and preparation beforehand; and all of the other routine tasks expected of an attorney.

Also, because of the nature of this case, Attorney Smith requires more time to obtain further declarations from Defendants and others and to finish his internal factual enquiries that will eventually assist the court in the adequate adjudication of Defendants' motion for summary judgment, which will be filed if no settlement is reached following Shackerford's

1 latest settlement offer.<sup>2</sup> In sum, because of many deadlines and last-minute assignments  
2 over the last several weeks (and indeed months), Attorney Smith needs additional time in  
3 which to adequately move for summary judgment.

4 Finally, because of the COVID pandemic, Attorney Smith has continued to work  
5 from home most of the time, and this has made discovery and various other tasks more  
6 difficult than usual; his ability to access records (in addition to necessary declarations and  
7 the like) has been impeded and slowed down; however, Attorney Smith is working  
8 diligently to defend this action. In sum, for the reasons stated above and because no rushed  
9 work product is good work product, Attorney Smith needs additional time in order to  
10 adequately brief the court for summary judgment in this action.

11 **D. The Four Factors Contained Within LR 26-3 Are Satisfied<sup>3</sup>**

12 The four factors contained within LR 26-3—(a) a statement specifying the discovery  
13 completed; (b) a specific description of the discovery that remains to be completed; (c) the  
14 reasons why the deadline was not satisfied or the remaining discovery was not completed  
15 within the time limits set by the discovery plan; and (d) a proposed schedule for completing  
16 all remaining discovery—are satisfied. Defendants have completed discovery in this action,  
17 and no further discovery is needed. The reasons why Defendants are unable to adhere to  
18 the dispositive motions deadline are succinctly and thoroughly elaborated on at length in  
19 the preceding paragraphs. No discovery remains, but Defendants move to amend the  
20 scheduling order to extend by fifty days the May 12, 2021 dispositive motions deadline.

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22 <sup>2</sup> In the meet and confer, Shackerford also extended a new, more modest settlement  
23 offer to Defendants. Thus Defendants would benefit from an extension of time, which will  
24 allow Attorney Smith to liaise with the relevant staff at (i) the Attorney General's Office  
25 (such as the Nevada Tort Claims Manager) and (ii) the Nevada Department of Corrections  
26 about possibly settling this case before the filing of any dispositive motions and thus  
27 conserving precious judicial resources and taxpayers' money; however, the consideration of  
28 a settlement offer takes time because of legislative and executive imposed procedures.

<sup>3</sup> LR 26-3 lists four factors that are considered. Arguably, these apply only when a  
party moves for an extension to extend a discovery deadline or to reopen discovery; here,  
Defendants neither move to extend a discovery deadline nor move to reopen discovery, but  
because this motion seeks to extend a deadline—originally established by a January 12,  
2021 scheduling order (ECF No. 21)—to July 1, 2021, out of an abundance of caution, the  
factors contained within LR 26-3 are addressed in case the court decides that the four-  
factor requirement contained within that rule applies in this instance.

1           **E.     Meet And Confer**

2           On May 10, 2021, counsel for Defendants met and conferred via telephone with  
3 Shackerford to discuss this motion to extend the deadline to file dispositive motions.  
4 Shackerford stated that this motion is unopposed.

5           **II.     CONCLUSION**

6           Defendants demonstrate good cause to extend the dispositive motions deadline to  
7 July 1, 2021. Shackerford does not oppose this motion. Due to the nature of summary  
8 judgment and the time and complexity involved in adequately briefing the court, and  
9 because the Ninth Circuit and other appellate courts prefer to see that cases are tried on  
10 the merits and not on a technicality, Defendants respectfully move for an extension of time  
11 to file a motion for summary judgment and request that the due date be extended from  
12 **May 12, 2021, to July 1, 2021.**

13           DATED this 12th day of May, 2021.

14                               AARON D. FORD  
15                               Attorney General

16                               By: /s/ Alexander J. Smith  
                                      ALEXANDER J. SMITH (Bar No. 15484C)  
17                               Deputy Attorney General

18                               *Attorneys for Defendants*

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20  
21                               **IT IS SO ORDERED.**

22                               Dated this 13 day of May, 2021

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25                               \_\_\_\_\_  
26                               Gloria M. Navarro, District Judge  
27                               UNITED STATES DISTRICT COURT  
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